

31A-27a-113 Executory contracts.

- (1) Subject to the other provisions of this section, the receiver may assume or reject an executory contract or unexpired lease of the insurer.
- (2)
 - (a) If there is a default in an executory contract or unexpired lease of the insurer, the receiver may not assume the contract or lease unless, at the time of the assumption of the contract or lease, the receiver:
 - (i) cures or provides adequate assurance that the receiver will promptly cure the default; and
 - (ii) provides adequate assurance of future performance under the contract or lease.
 - (b) This Subsection (2) does not apply to a default that is a breach of a provision relating to:
 - (i) the insolvency or financial condition of the insurer at any time before the closing of the delinquency proceeding;
 - (ii) the appointment of or taking possession by:
 - (A) a receiver in a case under this chapter; or
 - (B) a custodian before the commencement of the delinquency proceeding; or
 - (iii) the satisfaction of a penalty rate or provision relating to a default arising from a failure of the insurer to perform a nonmonetary obligation under the executory contract or unexpired lease.
- (3) A claim arising from a rejection under this section or under a plan of rehabilitation or liquidation of an executory contract or unexpired lease of the insurer that is not assumed shall be determined, and shall be treated and classified as though the claim arose before the day on which a successful petition commencing the delinquency proceeding is filed.

Enacted by Chapter 309, 2007 General Session